

HOUSE BILL No. 1549

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-10-44; IC 6-1.2; IC 6-1.6; IC 6-1.7; IC 6-1.8; IC 6-1.9; IC 6-2.5; IC 6-3-2-1; IC 6-8.1-1-1; P.L.146-2008, SECTION 850.

Synopsis: Elimination of property taxes. Eliminates all ad valorem property taxes. Provides for the implementation of a local residential income tax, a local fire and safety benefit tax, a state commercial activity tax, and a state employer payroll expense tax to replace revenue lost to political subdivisions from the elimination of property taxes. Increases the state gross retail and use tax. Reduces the state adjusted gross income tax rate. Makes other changes to the tax laws. Repeals a temporary property tax homestead credit and appropriation for 2010. Makes appropriations.

Effective: July 1, 2009; January 1, 2010; July 1, 2010.

Thompson

January 16, 2009, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1549

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2010]: **Sec. 44. After December 31, 2009, property is**
4 **exempt from a fire and safety benefit tax imposed under IC 6-1.7**
5 **to the same extent as the property would have been exempt from**
6 **property taxes. A reference in this chapter or IC 6-1.1-11 to a**
7 **property tax shall be treated after December 31, 2009, as a**
8 **reference to fire and safety benefit taxes imposed under IC 6-1.7.**

9 SECTION 2. IC 6-1.2 IS ADDED TO THE INDIANA CODE AS A
10 **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1,
11 2009]:

12 **ARTICLE 1.2. PROCEDURES FOR FIXING AND**
13 **REVIEWING BUDGETS, TAX RATES, AND TAX LEVIES**

14 **Chapter 1. Purpose; Application**

15 **Sec. 1. This article applies to the following:**

16 **(1) Any political subdivision to which a law enacted before**
17 **January 1, 2009, grants authority to impose an ad valorem**



property tax.

(2) Any political subdivision that is granted authority to enact a tax under IC 6-1.6 or IC 6-1.7.

(3) A district with an allocation area.

Sec. 2. The purpose of this article, IC 6-1.6, IC 6-1.7, IC 6-1.8, and IC 6-1.9 is to replace ad valorem property taxes with the following alternative sources of tax revenue:

(1) Locally adopted residential income taxes distributable to the political subdivisions providing services where a taxpayer has the taxpayer's principal place of residence.

(2) Locally adopted fire and safety benefit taxes distributable to the political subdivisions providing public services where property is located.

(3) Statewide commercial activity taxes distributable to the political subdivisions providing services where business property is located.

(4) Statewide utility receipts taxes distributable to the political subdivisions providing services where business property is located.

(5) Statewide employer payroll expense taxes distributable to the political subdivisions providing services where an employer's employees have a principal place of business.

Sec. 3. Notwithstanding any other law, neither the state nor any political subdivision may impose an ad valorem property tax for an assessment date after January 15, 2009.

Sec. 4. Notwithstanding any other law, a county assessor or township assessor may not carry out an assessment of property for an assessment date after January 15, 2009. However, the county auditor and the county assessor shall maintain a description of the property in the county sufficient to impose taxes under IC 6-1.7. The county assessor shall provide property information to the department of state revenue in the form and in the manner prescribed by the department.

Sec. 5. The procedures set forth in this article apply to budget years beginning after December 31, 2009.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Allocation area" refers to an area that is established under the authority of any of the following statutes and in which tax increment revenues are collected:

(1) IC 6-1.1-39.

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(2) IC 8-22-3.5.

(3) IC 36-7-14.

(4) IC 36-7-14.5.

(5) IC 36-7-15.1.

(6) IC 36-7-30.

(7) IC 36-7-30.5.

Sec. 3. "Budget year" means a calendar year.

Sec. 4. "County board" refers to the county board of tax adjustment or the county auditor, if the county auditor is carrying out the statutory functions of the county board of tax adjustment.

Sec. 5. "Department" refers to the department of state revenue.

Sec. 6. "Impose" means the following:

(1) To establish a tax.

(2) To set a tax rate for a tax.

(3) To increase or decrease the tax rate for a tax.

(4) To otherwise change the terms or conditions of a tax.

Sec. 7. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 8. "Taxes" means taxes imposed or distributed to a political subdivision under any of the following:

(1) IC 6-1.6.

(2) IC 6-1.7.

(3) IC 6-1.8.

(4) IC 6-1.9.

Sec. 9. "Tax increment revenues" means an allocation of:

(1) ad valorem property taxes under a law adopted before January 1, 2010, to an allocation area based on an increase in the assessed value, wages, sales, or other economic activity occurring in the allocation area; or

(2) taxes to replace the revenue lost from the elimination of ad valorem property taxes.

Sec. 10. "Tax limit" refers to a limit on property tax rates or property tax levies imposed under IC 6-1.1-18.5 or any law other than IC 6-1.1-20.6.

Sec. 11. "Taxing unit" means a political subdivision described in IC 6-1.2-1-1.

Chapter 3. Adoption of Budgets, Tax Rates, and Tax Levies

Sec. 1. Except as otherwise provided in this chapter, the procedures set forth in IC 6-1.1-17 and IC 6-1.1-18 apply to the adoption of:

(1) the part of a budget or supplemental budgets payable from taxes; and

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(2) the setting of tax rates and levies under IC 6-1.6 and IC 6-1.7;

to the same extent as if the taxes were ad valorem property taxes.

Sec. 2. Before July 2 in each year, the county fiscal officer shall send a certified statement containing the following information to the fiscal officer of each taxing unit in the county:

(1) An estimate of taxes and property tax levy amounts to be distributed to the taxing unit during the last six (6) months of the year.

(2) The average growth in adjusted gross income in the county over the preceding three (3) years.

(3) The amount available in the rainy day fund established under IC 6-1.2-7-1 to replace revenue shortfalls from a year before the ensuing year and to reduce tax rates in the ensuing year.

(4) Any other information at the disposal of the county fiscal officer that might affect the budget adoption process.

Sec. 3. In formulating budget estimates, a taxing unit's fiscal officer and fiscal body shall identify the tax needed for each fund for the budget year.

Sec. 4. In the notice required under IC 6-1.1-17-3, a taxing unit shall include the following information:

(1) The amount of the budget for each fund that the taxing unit proposes to fund from taxes and the estimated tax rate necessary to raise the amount.

(2) The amount of the budget that will be funded from a distribution of the taxing unit's reserve in the rainy day fund established under IC 6-1.2-7-1.

Sec. 5. Not later than the date on which the notice described in section 4 of this chapter is published, a taxing unit shall submit a copy of the notice to the county fiscal officer.

Sec. 6. In the hearing conducted under IC 6-1.1-17-3 and either IC 6-1.1-17-5 or IC 6-1.1-17-5.6, a taxing unit shall consider public testimony concerning the part of the budget that the taxing unit proposes to fund from taxes.

Sec. 7. Ten (10) or more individuals or entities that could be subject to a tax may object to a taxing unit's budget in the same manner as an objection may be filed under IC 6-1.1-17-5. The taxing unit shall make findings concerning an objection filed under this section in the same manner as the taxing unit is required to make findings to an objection filed under IC 6-1.1-17-5.

Sec. 8. A taxing unit's:

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(1) budget; and

(2) tax levies;

must be adopted in conformity with IC 6-1.1-17-5 or IC 6-1.1-17-5.6, as applicable. The ordinance or resolution in which the tax levies are adopted must estimate the tax rates necessary to raise the tax levies and must separately state the tax levies and tax rates that are attributable to an excessive levy appeal.

Sec. 9. If a taxing unit's fiscal body does not fix a budget or specify the taxes needed to fund the budget before the date specified in IC 6-1.1-17-5 or IC 6-1.1-17-5.6 or any later date approved by the department of local government finance, the tax levy specified in the most recently adopted budget shall be treated as the tax levy adopted for the ensuing year. The department of local government finance shall compute the appropriate tax rate.

Sec. 10. Each year, at least two (2) days before the first meeting of the county board held under IC 6-1.1-29-4, a taxing unit shall file with the county auditor of each county in which the taxing unit is located:

(1) a statement of each tax rate and levy fixed by the taxing unit for the ensuing budget year;

(2) two (2) copies of the budget adopted by the taxing unit for the ensuing budget year; and

(3) two (2) copies of any findings adopted under section 7 of this chapter.

The county auditor shall present these items to the county board at the board's first meeting. If a taxing unit is located in more than one (1) county, the county determined under IC 6-1.1-17-7 has jurisdiction over the taxing unit's budget, tax rates, and tax levies.

Sec. 11. When a county board reviews budgets, tax levies, and tax rates under IC 6-1.1-17-6, the county board may accept, revise, reduce, or increase the taxes, tax rates, and part of the budget funded from taxes proposed by the taxing unit to enforce the tax limits imposed by law.

Sec. 12. A county board shall notify the fiscal officer of each taxing unit in the county of any action taken by the county board under section 11 of this chapter. The county board of tax adjustment or county fiscal officer shall issue its determination under section 11 of this chapter in the form of a written order. The written order shall be certified to the following:

(1) The affected taxing unit.

(2) The county fiscal officer for each county in which the taxing unit is located.

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1 **Sec. 13. In the notice required under IC 6-1.1-17-12, the county**
 2 **fiscal officer shall include the following information:**

3 (1) The tax levy and estimated tax rate that will be in effect in
 4 the taxing unit for the following year.

5 (2) A statement briefly describing the actions that the
 6 department of local government finance is empowered to take
 7 with respect to the tax levies, tax rates, and budget of the
 8 taxing unit.

9 **Sec. 14. The county fiscal officer shall forward a copy of the**
 10 **budget, tax rates, and tax levies for each taxing unit in the county**
 11 **to the department of local government finance along with notice of**
 12 **the actions taken by the county board under section 11 of this**
 13 **chapter.**

14 **Sec. 15. The department of local government finance shall**
 15 **certify a taxing unit's tax levies and tax rates for a year to:**

- 16 (1) the affected taxing unit;
 17 (2) the county fiscal officer for the county where taxes must be
 18 raised, if applicable;
 19 (3) the department; and
 20 (4) the auditor of state;

21 **before December 2 or as soon as practicable after December 1 of**
 22 **the year that immediately precedes the year in which a tax or a tax**
 23 **increase will take effect.**

24 **Sec. 16. A tax rate certified under this chapter takes effect on**
 25 **the later of January 1 or thirty (30) days after the tax rate is**
 26 **certified by the county board.**

27 **Sec. 17. The total amount of taxes levied and the total amount**
 28 **budgeted for a taxing unit may not exceed the tax limits applicable**
 29 **to the taxing unit. Tax limits applicable to property taxes shall be**
 30 **treated as applying to revenues from taxes that must be budgeted**
 31 **under this article to the same extent as if they were property taxes.**
 32 **The county board may prescribe standards for converting a tax**
 33 **limit applicable to property taxes to a tax limit applicable to the**
 34 **revenues from taxes that must be budgeted under this article.**

35 **Chapter 4. Anticipation Loans**

36 **Sec. 1. The fiscal body for a taxing unit may (by ordinance, if the**
 37 **taxing unit is a county, city, or town, or otherwise by resolution)**
 38 **enter into temporary loans to meet the current running expenses**
 39 **of the taxing unit in anticipation of and not in excess of taxes**
 40 **imposed for a budget year.**

41 **Sec. 2. Temporary loans under this chapter must be evidenced**
 42 **by tax anticipation warrants of the taxing unit.**

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Sec. 3. An ordinance or resolution authorizing the issuance of tax anticipation warrants under this chapter must:

- (1) state the total amount of the issue;**
- (2) state the denomination of the warrants;**
- (3) state the date, time, and place at which the warrants are payable;**
- (4) state the rate of interest;**
- (5) state the funds and revenues in anticipation of which the warrants are issued and out of which they are payable; and**
- (6) appropriate and pledge a sufficient amount of those revenues to the punctual payment of the warrants.**

Sec. 4. Tax anticipation warrants issued under this chapter may be for a term that extends to any date after the close of a particular budget year on which taxes imposed for the budget year are reasonably expected to be collected.

Sec. 5. Tax anticipation warrants issued under this chapter are exempt from taxation for all purposes.

Chapter 5. Bond and Lease Obligations; Allocation Areas

Sec. 1. Notwithstanding any other law, if a taxing unit desires to issue obligations or enter into leases, payable wholly or in part from taxes, the obligations of the taxing unit or any lessor may be sold at a public sale in accordance with IC 5-1-11 or at a negotiated sale.

Sec. 2. A pledge of tax revenues is enforceable in accordance with IC 5-1-14.

Sec. 3. With respect to obligations for which a pledge has been made from taxes, the general assembly covenants with the taxing unit and the purchasers or owners of those obligations that the law governing the taxes will not be repealed or amended in any manner that will adversely affect the tax collected under the law as long as the principal of or interest on those obligations is unpaid.

Sec. 4. Political subdivisions must fully fund the payment of their debt service and lease obligations in an amount sufficient to pay any debt service or lease rentals on outstanding obligations, regardless of any reduction in tax collections or spending authority due to the application of any tax limit. Any reduction in collections or spending authority must be applied to the other funds of the political subdivision after debt service or lease rentals have been fully funded.

Sec. 5. A pledge made by a political subdivision or the governing body of an allocation area before January 1, 2010, to pay:

- (1) any bonds, loans, other obligations, or lease rentals; or**

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(2) any credit enhancement;
from ad valorem property taxes, including tax incentive revenues,
shall be treated after December 31, 2009, as a pledge to make the
payment from revenues from taxes.

Sec. 6. The taxing units located in an area containing an
allocation area shall raise an amount of revenue to distribute to the
governing body of the allocation area sufficient to meet the
obligations incurred by the governing body. However, the amounts
distributed from the taxes imposed for a taxing unit may not
exceed the amount of tax incentive revenues attributable to the
taxing unit that would have been distributed to the allocation area
if property taxes had not been eliminated. The taxing limits that
would otherwise apply to a taxing unit are increased to the extent
and for the time necessary to comply with this section. The county
board shall provide for the method of transferring taxes to an
allocation area.

Chapter 6. Treatment of Taxes as Property Taxes

Sec. 1. For purposes of:

- (1) making distributions of revenues that are distributed to a
taxing unit based on the property tax levies imposed by the
taxing unit;
- (2) determining the maximum permissible taxes that may be
imposed by taxing units; and
- (3) all other purposes;

taxes shall be treated as ad valorem property taxes.

Chapter 7. Rainy Day Fund

Sec. 1. A rainy day fund is established in each political
subdivision that has not established a rainy day fund under
IC 36-1-8-5.1.

Sec. 2. (a) A political subdivision annually shall determine an
amount that equals five percent (5%) of the amount distributed to
the political subdivision under this article and IC 6-1.6 in the
immediately preceding year.

(b) A political subdivision shall deposit in the political
subdivision's rainy day fund established under section 1 of this
chapter, from distributions to the political subdivision under this
article and IC 6-1.6 during a period not exceeding three (3) years
immediately after a five percent (5%) balance is determined under
subsection (a), at least the amount necessary to provide or restore
the amount determined under subsection (a).

Sec. 3. Tax revenues:

- (1) received under IC 6-1.6, IC 6-1.7, IC 6-1.8, or IC 6-1.9 for

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any budget year in excess of the amount budgeted from taxes by a taxing unit for the budget year in a budget approved by the county board; or

(2) received under IC 6-1.7 for a budget year in excess of an amount of just and equitable taxes, as determined under IC 6-1.7-5-7;

shall be deposited in the taxing unit's rainy day fund. Money deposited in the rainy day fund under this section may be used only to reduce the tax rates that would otherwise be imposed under IC 6-1.6.

Sec. 4. In addition to the uses permitted under IC 36-1-8-5.1, money in a political subdivision's rainy day fund may be used to:

(1) make up a shortfall in estimated revenue under IC 6-1.1, this article, IC 6-1.6, or IC 6-1.7;

(2) provide a temporary loan to any fund for a budget year in anticipation of the collection of tax revenue for the budget year after the close of the budget year; or

(3) maintain tax rates lower than the tax rates that would otherwise apply under this article if money were not available in the rainy day fund.

Chapter 8. Exchange of Information

Sec. 1. Forms, notices, ordinances, and resolutions required or permitted under this article must be prepared and used in the form and in the manner approved by the state board of accounts.

Sec. 2. The department shall establish a schedule for regularly providing information to a county board and a taxing unit concerning the following:

(1) The amount of tax collections.

(2) The status of pending tax assessments, including information concerning proposed assessments and potential refunds.

(3) The amount of refunds made to taxpayers.

(4) The balance held by the state that is attributable to taxes imposed for the taxing unit.

(5) Transfers in and out of the taxing unit's account that are made to correct errors in the apportionment of taxes to the taxing unit.

(6) Other information that is necessary for the fiscal officer of the taxing unit and county board to verify the amount of tax revenue that will be available to the taxing unit.

Sec. 3. The department may enter into a confidentiality agreement with county boards and taxing units to share

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information under the terms determined by the department.

Sec. 4. The department, after reviewing the recommendations of the budget agency, shall establish a schedule to regularly provide revenue forecasts to county boards and taxing units.

Sec. 5. The department shall require employers and taxpayers to provide sufficient information to permit the department to allocate tax revenues to taxing units under this article, IC 6-1.6, and IC 6-1.7. The information may be consolidated with other returns in the manner prescribed by the department.

Sec. 6. The department shall conduct a program to provide employers and taxpayers with information adequate to enable employers or taxpayers to accurately report the information required under section 5 of this chapter.

SECTION 3. IC 6-1.6 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 1.6. LOCAL RESIDENT INCOME TAX

Chapter 1. Definitions

Sec. 1. The definitions in IC 6-3 and this chapter apply throughout this article.

Sec. 2. "Adjusted gross income" has the meaning set forth in IC 6-3-1-3.5(a).

Sec. 3. "Allocation area" has the meaning set forth in IC 6-1.1-21.2-3.

Sec. 4. "Budget year" means a calendar year.

Sec. 5. "Impose" means the following:

- (1) To establish a tax.
- (2) To set a tax rate for a tax.
- (3) To increase or decrease the tax rate for a tax.
- (4) To otherwise change the terms or conditions of a tax.

Sec. 6. "Residency determination date" refers to the date in a taxpayer's taxable year on which the taxpayer's obligation to pay taxes imposed by a particular taxing unit is determined.

Sec. 7. "Resident" means an individual who is a resident of a taxing unit on the residency determination date in the individual's taxable year.

Sec. 8. "Tax" refers to the local resident income tax imposed under this article.

Sec. 9. "Tax area" refers to a tax area determined under IC 6-1.6-2.

Sec. 10. "Tax limit" refers to a tax limit imposed under IC 6-1.1-18.5 or any other law that applies to a tax or property

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1 taxes.

2 Sec. 11. "Taxing unit" refers to the following:

3 (1) Any political subdivision (as defined in IC 36-1-2-13) to
4 which a law enacted before January 1, 2010, grants authority
5 to impose an ad valorem property tax.

6 (2) Any political subdivision (as defined in IC 36-1-2-13) that
7 is granted authority to enact a tax under this article.

8 Sec. 12. "Taxpayer" refers to an individual who has tax liability
9 under this article.

10 Chapter 2. Determination of Tax Area

11 Sec. 1. A tax levy for a taxing unit shall be imposed in the tax
12 area determined under this chapter.

13 Sec. 2. The tax rate imposed by a taxing unit in the taxing unit's
14 tax area shall be uniformly applied to the adjusted gross income of
15 all taxpayers in the taxing area.

16 Sec. 3. (a) This section applies to a school corporation.

17 (b) The taxing area for a school corporation is the area within
18 the boundaries of the school corporation.

19 Sec. 4. (a) This section applies to the following:

20 (1) A city or town.

21 (2) Any taxing unit that has boundaries that do not extend
22 beyond the boundaries of a particular city or town.

23 (b) The taxing area of a taxing unit is the area served by the city
24 or town.

25 Sec. 5. (a) This section applies to a taxing unit, other than a
26 taxing unit described in section 3 or 4 of this chapter.

27 (b) The taxing area of the taxing unit is the entire area of each
28 county where the taxing unit provides services.

29 Chapter 3. Imposition of Tax

30 Sec. 1. The fiscal body of a taxing unit may impose a tax on the
31 adjusted gross income of taxpayers in the taxing unit's tax area for
32 taxable years beginning after December 31, 2009. The tax rate set
33 by the taxing unit for a particular budget year may not exceed,
34 after applying all other revenues from taxes that must be budgeted
35 under IC 6-1.2, the lesser of the following:

36 (1) The revenue necessary for the taxing unit to fund its
37 budget for the budget year.

38 (2) The amount that is permitted to be raised for the
39 particular budget year under the tax limits that apply to the
40 taxing unit.

41 Sec. 2. The tax is imposed on the adjusted gross income of:

42 (1) each individual who is a resident of the tax area on the

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1 residency determination date for the individual's taxable
2 year; and

3 (2) each individual:

4 (A) who is not a resident of any tax area in Indiana on the
5 residency determination date for the individual's taxable
6 year; but

7 (B) whose principal place of business or employment is
8 located in the tax area on the residency determination date
9 for the individual's taxable year.

10 **Sec. 3. For purposes of this chapter, an individual shall be**
11 **treated as a resident of:**

12 (1) the tax area in which the individual maintains a home, if
13 the individual maintains only one (1) home in Indiana;

14 (2) if subdivision (1) does not apply, the tax area in which the
15 individual is registered to vote;

16 (3) if subdivision (1) and (2) do not apply, the tax area in
17 which the individual registers the individual's personal
18 automobile; or

19 (4) if subdivisions (1), (2), and (3) do not apply, the tax area in
20 which the individual spends the majority of the individual's
21 time in Indiana during the taxable year in question.

22 **Sec. 4. The residence of an individual is determined on January**
23 **1 of the year in which the individual's taxable year begins. If an**
24 **individual changes the location of the individual's residence to**
25 **another tax area in Indiana during a year, the individual's liability**
26 **for the tax is not affected.**

27 **Sec. 5. If for any taxable year a taxpayer is subject to different**
28 **tax rates for the tax imposed in a tax area, the taxpayer's tax rate**
29 **for the tax area and that taxable year is the rate determined in**
30 **STEP FOUR of the following STEPS:**

31 **STEP ONE: Multiply the number of months in the taxpayer's**
32 **taxable year that precede July 1 by the rate in effect before**
33 **the rate change.**

34 **STEP TWO: Multiply the number of months in the taxpayer's**
35 **taxable year that follow June 30 by the rate in effect after the**
36 **rate change.**

37 **STEP THREE: Add the results determined under STEP ONE**
38 **and STEP TWO.**

39 **STEP FOUR: Divide the STEP THREE result by twelve (12).**

40 **Sec. 6. If the tax is not in effect during a taxpayer's entire**
41 **taxable year, the amount of tax that the taxpayer owes for that**
42 **taxable year equals the product of:**

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(1) the amount of tax the taxpayer would owe if the tax had been imposed during the taxpayer's entire taxable year; multiplied by

(2) a fraction. The numerator of the fraction equals the number of days in the taxpayer's taxable year during which the tax was in effect. The denominator of the fraction equals the total number of days in the taxpayer's taxable year.

Sec. 7. (a) Except as provided in subsection (b), if for a particular taxable year a resident is liable for an income tax imposed by a county, city, town, or other local governmental entity located outside Indiana, that resident is entitled to a credit against the taxpayer's total tax liability imposed under this article for that same taxable year. The amount of the credit equals the amount of tax imposed by the other governmental entity on income derived from sources outside Indiana and subject to the tax under this chapter. However, the credit provided by this section may not reduce a resident's tax liability under this article to an amount less than would have been owed if the income subject to taxation by the other governmental entity had been ignored.

(b) The credit provided by this section does not apply to a resident to the extent that the other governmental entity provides for a credit to the resident for the amount of taxes owed under this article.

(c) To claim the credit provided by this section, a resident must provide the department of state revenue with satisfactory evidence that the taxpayer is entitled to the credit.

Sec. 8. (a) If for a particular taxable year a taxpayer is, or a taxpayer and the taxpayer's spouse who file a joint return are, allowed a credit for the elderly or totally disabled under Section 22 of the Internal Revenue Code, the taxpayer is, or the taxpayer and the taxpayer's spouse are, entitled to a credit against the tax liability under this article for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the credit for the elderly or totally disabled for that same taxable year; multiplied by

(B) a fraction, the:

(i) numerator of which is the tax rate imposed under this article against the taxpayer or the taxpayer and the taxpayer's spouse; and

(ii) denominator of which is fifteen-hundredths (0.15); or

(2) the amount of tax imposed on the taxpayer or the taxpayer

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and the taxpayer's spouse.

(b) If a taxpayer and the taxpayer's spouse file a joint return and are subject to different taxing unit tax rates for the same taxable year, the taxpayer and the taxpayer's spouse shall compute the credit under this section by using the formula provided under subsection (a), except that they shall use the average of the two (2) tax rates imposed against them as the numerator referred to in subsection (a)(1)(B)(i).

Sec. 9. Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

- (1) definitions;
- (2) declarations of estimated tax;
- (3) filing of returns;
- (4) deductions or exemptions from adjusted gross income;
- (5) remittances;
- (6) incorporation of the provisions of the Internal Revenue Code;
- (7) penalties and interest; and
- (8) exclusion of military pay credits for withholding;

apply to the imposition, collection, and administration of the tax imposed by this article.

Sec. 10. IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5, IC 6-3-4-4.1(g), IC 6-3-4-8.1(f), and IC 6-3-5-1 do not apply to the tax imposed by this article.

Sec. 11. Each employer, including an employer making payments by electronic funds transfer, shall report to the department of state revenue for each reporting period the amount of tax withholdings attributable to each taxing area. The report must be made before the later of:

- (1) the time that an employer that is not making an electronic funds transfer is required to pay to the department of state revenue amounts withheld during the reporting period; or
- (2) the date specified by the department of state revenue.

Sec. 12. A taxpayer required to file estimated or annual state adjusted gross income tax returns under IC 6-3-4-4.1, including taxpayers making payments by electronic funds transfer, shall file estimated tax returns and make payments of the tax imposed by this article to the department of state revenue at the time or times and in the installments specified under IC 6-3-4-4.1 for making estimated state adjusted gross income tax returns by taxpayers not making an electronic funds transfer.

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Chapter 4. Distribution of Tax Revenue

Sec. 1. The department of state revenue shall separately account within the state general fund for the taxes imposed in each taxing area in a manner sufficient to provide each taxing unit in a taxing area, the taxpayers of the taxing unit, and a county board with jurisdiction over the taxing unit with an accounting of the amounts collected under this article in each of the taxing unit's taxing areas.

Sec. 2. The auditor of state shall distribute each month to a taxing unit the net amount collected in the immediately preceding month from the tax imposed by the taxing unit, after making refunds and other adjustments for the overpayment of taxes.

Sec. 3. The auditor of state shall distribute, as required by law, for deposit in the appropriate special fund, any tax revenue that is to be distributed to an allocation area.

Sec. 4. Distributions under this chapter must be made from the state general fund.

Sec. 5. (a) This section applies if:

(1) a taxing unit's legislative body adopts an ordinance (if the taxing unit is a county, city, or town) or a resolution (if the taxing unit is not a county, city, or town) authorizing the distribution of part of the taxing unit's taxes to an assignee of the taxing unit; and

(2) the assignment is permitted by law.

(b) The auditor of state shall reduce the amount of a distribution made to a taxing unit by the amount that the taxing unit directs the auditor of state to distribute to an assignee of the taxing unit.

(c) A distribution under this section must be made to the assignee designated in the ordinance or resolution at the assignee's last known address, as submitted to the auditor of state by the executive of the taxing unit before the cutoff date specified by the auditor of state or as otherwise determined by law.

(d) A distribution under this section may be made not more than one (1) time each month. The distribution may be made only in the months specified in the ordinance or resolution. The distribution for a month may not exceed the amount that the taxing unit would otherwise be entitled to receive as a distribution in the month, after deducting all other distribution assignments.

Sec. 6. The amount necessary to make the distributions required by this chapter is annually appropriated from the state general fund.

SECTION 4. IC 6-1.7 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,

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ARTICLE 1.7. FIRE AND SAFETY BENEFIT TAX

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Eligible entity" means a:

- (1) county, city, town, or township; or**
- (2) fire protection district;**

that provides public safety services.

Sec. 3. "Property" refers to property described in IC 6-1.7-2-1(2) that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law.

Sec. 4. "Public safety services" refers to services described in IC 6-1.7-2-3.

Sec. 5. "Tax" refers to the fire and safety benefit tax imposed under this article.

Chapter 2. Application

Sec. 1. This article applies to:

- (1) all eligible entities; and**
 - (2) the owner of each:**
 - (A) lot;**
 - (B) parcel of property; or**
 - (C) building or other real property improvement;**
- located in an eligible entity.**

Sec. 2. This article applies to an expenditure to establish, maintain, operate, provide facilities or equipment for, contract for, finance, or repay a judgment or other obligation related to any of the following:

- (1) A police and law enforcement system to preserve public peace and order.**
- (2) A firefighting and fire prevention system.**
- (3) Emergency ambulance services (as defined in IC 16-18-2-107), except as part of a levy for a county hospital under IC 16-22 or a municipal hospital under IC 16-23.**
- (4) Emergency medical services (as defined in IC 16-18-2-110), except as part of a levy for a county hospital under IC 16-22 or a municipal hospital under IC 16-23.**
- (5) Emergency action (as defined in IC 13-11-2-65).**

Sec. 3. The activities and systems to which this article applies include the following:

- (1) A communications system (as defined in IC 36-8-15-3) or an enhanced emergency telephone system (as defined in**

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1 IC 36-8-16-2).

2 (2) Pension payments for any of the following:

3 (A) A member of a fire department (as defined in
4 IC 36-8-1-8) or any other employee of a fire department.

5 (B) A member of a police department (as defined in
6 IC 36-8-1-9), a police chief hired under a waiver under
7 IC 36-8-4-6.5, or any other employee hired by a police
8 department.

9 (C) A county sheriff or any other member of the office of
10 the county sheriff.

11 (D) Other personnel employed to provide a service
12 described in section 2 of this chapter.

13 (3) Operation of the following:

14 (A) A county jail.

15 (B) A juvenile detention center.

16 Sec. 4. This article does not apply to expenditures related to:

17 (1) a court;

18 (2) a probation department of a court; or

19 (3) confinement, supervision, community correction services,
20 or other correctional services for a person who has been:

21 (A) diverted before a final hearing or trial under an
22 agreement that:

23 (i) is between the prosecuting attorney and the person or
24 the person's custodian, guardian, or parent; and

25 (ii) provides for confinement, supervision, community
26 correction services, or other correctional services instead
27 of a final action described in clause (B) or (C);

28 (B) convicted of a crime; or

29 (C) adjudicated as a delinquent child or a child in need of
30 services in a facility;

31 except for expenditures related to the operation of a county jail or
32 juvenile detention center.

33 Chapter 3. Elimination of Property Tax Levies; Repayment of
34 Prior Debt

35 Sec. 1. An eligible entity may not impose an ad valorem
36 property tax levy to pay an expenditure under IC 6-1.7-2-2 or to
37 fund the activities and systems referred to in IC 6-1.7-2-3.

38 Sec. 2. (a) This article does not prohibit:

39 (1) the consolidation of services payable from taxes; or

40 (2) the funding of emergency ambulance services or
41 emergency medical services with a user fee imposed under
42 another statute.

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(b) The legislative body of an eligible entity delivering the consolidated services referred to in subsection (a)(1) shall allocate the cost payable from taxes based on the relative benefit of the consolidated services to:

- (1) public safety services; and
- (2) other purposes.

Sec. 3. Section 1 of this chapter does not release or extinguish a debt of an eligible entity that was incurred before January 1, 2010. However, to the extent permitted under the Constitution of the United States and the Constitution of the State of Indiana, a law entitling a holder of an obligation to enforce a right to repayment from property tax levies does not apply after December 31, 2009, to a holder of an obligation that was created before January 1, 2010, but was incurred to finance an activity to which this article applies.

Sec. 4. If an agreement with an eligible entity entered into before January 1, 2010, or a judgment entered against an eligible entity before January 1, 2010, requires the eligible entity to make payments after December 31, 2009, from property tax levies that are prohibited by section 1 of this chapter, the holders of the obligations are entitled to payment from all other sources of receipts that are available to the eligible entity after December 31, 2009, except receipts that by law or the terms of a grant are restricted to another use.

Chapter 4. Treatment of Distributions Based on Property Tax Levies

Sec. 1. Taxes imposed under this article shall be treated as ad valorem property taxes for the purpose of distributions under the following:

- (1) IC 6-3.5.
- (2) IC 6-5.5.
- (3) IC 6-6-5.
- (4) Any other law that computes a distribution on the assessed value of the tangible property in an eligible entity or on the property tax levy imposed by the eligible entity.

Sec. 2. The department of state revenue shall provide the information for county auditors to make the distributions described in section 1 of this chapter for public safety services.

Chapter 5. Imposition of Tax

Sec. 1. An eligible entity may impose a tax on:

- (1) the owner of property in the eligible entity; and
- (2) if the eligible entity has entered into a contract to provide

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1 public safety services outside the eligible entity, the owner of
 2 property outside the eligible entity served under the contract;
 3 for any period beginning after December 31, 2009.

4 Sec. 2. The tax for public safety services shall be determined
 5 based on any combination of the following:

- 6 (1) The acreage or frontage of land.
- 7 (2) The relative crime or fire risk of property, as determined
 8 by insurance ratings and other information available to the
 9 eligible entity.
- 10 (3) The relative costs of purchasing or leasing special facilities
 11 or equipment to deliver public safety services to property.

12 Sec. 3. The tax for public safety services does not have to be
 13 uniform throughout the eligible entity or for all users. The
 14 legislative body of an eligible entity may exercise reasonable
 15 discretion in:

- 16 (1) adopting different tax schedules; or
- 17 (2) making classifications in tax schedules:
 - 18 (A) based on variations in the costs, including capital
 - 19 expenditures required, of furnishing the services to various
 - 20 classes of users or to various locations in the eligible entity;
 - 21 or
 - 22 (B) where there are variations in the number of users in
 - 23 various locations in the eligible entity.

24 Sec. 4. If public safety services will not be provided until after
 25 a capital improvement is completed, an eligible entity may bill and
 26 collect taxes for the services to be provided after the contract for
 27 construction of the capital improvement has been let and actual
 28 work commenced in an amount sufficient to meet the interest on
 29 the revenue bonds and other expenses payable before the
 30 completion of the capital improvement.

31 Sec. 5. Unless the eligible entity finds and directs otherwise,
 32 public safety services are considered to benefit every:

- 33 (1) lot;
- 34 (2) parcel of land; and
- 35 (3) building or other real property improvement;

36 in the eligible entity. The tax shall be billed and collected
 37 accordingly.

38 Sec. 6. (a) The legislative body of an eligible entity shall, by
 39 ordinance, or, in the case of a township or fire protection district,
 40 by resolution, establish just and equitable tax schedules for public
 41 safety services provided by the eligible entity. The tax is payable by
 42 the owner of each lot, parcel of land, or building or other real

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property improvement that:

(1) is in the eligible entity; or

(2) in any way uses or is served by the eligible entity.

(b) The legislative body of an eligible entity may periodically change and readjust the tax schedules as provided in this article.

Sec. 7. (a) For purposes of this chapter, just and equitable taxes are those that produce sufficient revenue to provide revenue for not more than fifty percent (50%) of the following:

(1) All expenses incident to the delivery of public safety services.

(2) A sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds.

(3) Adequate money to be used as working capital and money for making improvements, additions, extensions, and replacements.

(b) Taxes too low to meet the financial requirements described in subsection (a) are unlawful. The initial taxes established after notice and hearing under this article are prima facie just and equitable.

Sec. 8. The initial taxes may be established under this article only after a public hearing at which all the:

(1) property owners to be served by the eligible entity; and

(2) others interested;

have an opportunity to be heard concerning the proposed taxes.

Sec. 9. After introduction of the ordinance or resolution initially establishing taxes but before the ordinance or resolution is finally adopted, notice of the hearing setting forth the proposed schedule of the taxes must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in the eligible entity. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

Sec. 10. (a) The ordinance or resolution establishing the initial taxes, either as:

(1) originally introduced; or

(2) modified and amended;

must be passed and put into effect after the hearing.

(b) A copy of the schedule of the taxes established must be:

(1) kept on file in the principal office of the eligible entity; and

(2) open to public inspection.

Sec. 11. (a) The taxes established for a class of users of property

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served shall be extended to cover any additional property served after the taxes are established that are in the same class without the necessity of hearing or notice.

(b) A change or readjustment of the taxes may be made in the same manner as the taxes were originally established.

Sec. 12. Taxes imposed under this article that result in revenue exceeding the amount of just and equitable taxes permitted under section 7 of this chapter are not void. The excess shall be deposited in the political subdivision's rainy day fund and used as required under IC 6-1.2-7-3.

Chapter 6. Liens for Taxes

Sec. 1. The taxes made, assessed, or established under this article against:

(1) a lot;

(2) a parcel of land; or

(3) a building or other real property improvement;

in an eligible entity or served by an eligible entity are a lien against the lot, parcel of land, or building or other real property improvement.

Sec. 2. Except as provided in sections 5 and 6 of this chapter, a lien under section 1 of this chapter attaches at the time of the recording of the list in the county recorder's office as provided in IC 6-1.7-7. The lien:

(1) is superior to and takes precedence over all other liens except a lien for taxes; and

(2) shall be enforced under this article.

Sec. 3. If taxes are not paid within the time fixed by the eligible entity, the taxes become delinquent, and a penalty of ten percent (10%) of the amount of the taxes attaches to the taxes. The eligible entity may recover:

(1) the amount due;

(2) the penalty; and

(3) reasonable attorney's fees;

in a civil action in the name of the eligible entity.

Sec. 4. The taxes, together with the penalty, are collectible in the manner provided by this article.

Sec. 5. (a) A tax is not enforceable as a lien against a subsequent owner of property unless the lien for the tax was recorded with the county recorder before the conveyance to the subsequent owner.

(b) If the property is conveyed before the lien can be filed, the officer of the eligible entity who is charged with the collection of the tax shall notify the person who owned the property at the time

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the tax became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received before one hundred eighty (180) days after the date of the notice have elapsed, the amount due may be expensed as a bad debt loss.

Sec. 6. (a) This section applies whenever a property owner has notified the eligible entity by certified mail with return receipt requested of the address to which the owner's notice is to be sent.

(b) A lien does not attach against a lot, parcel of land, or building or other real property improvement occupied by someone other than the owner unless the officer of the eligible entity who is charged with the collection of taxes notifies the owner of the property after the taxes have become sixty (60) days delinquent.

Sec. 7. (a) The eligible entity shall release:

- (1) liens filed with the county recorder after the recorded date of conveyance of the property; and
- (2) delinquent taxes incurred by the seller;

on receipt of a verified demand in writing from the purchaser.

(b) The demand must state the following:

- (1) That the delinquent taxes were not incurred by the purchaser as a user, lessee, or previous owner.
- (2) That the purchaser has not been paid by the seller for the delinquent taxes.

Chapter 7. Enforcement of Delinquencies

Sec. 1. This chapter applies only to taxes or penalties that have been due and unpaid for at least ninety (90) days.

Sec. 2. The officer of the eligible entity who is charged with the collection of the taxes shall enforce payment of the taxes. The officer shall, not more than two (2) times in a year, prepare a list of the delinquent taxes, including the amount of the penalty, that are enforceable under this chapter. The list must include the following:

- (1) The name of each owner of each lot or parcel of real property on which the taxes have become delinquent.
- (2) The description of the property as shown by the records of the office of the county auditor.
- (3) The amount of the taxes, together with the amount of the penalty.

Sec. 3. (a) The officer of the eligible entity shall record a copy of the list in the office of the county recorder.

(b) The county recorder shall charge a fee for recording the list

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in accordance with the fee schedule established in IC 36-2-7-10.

(c) After recording the list, the officer shall mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.

(d) This subsection applies only to a county that does not contain a consolidated city. A service charge of five dollars (\$5), which is in addition to the recording fee charged under this section and section 6 of this chapter, shall be added to each delinquent tax that is recorded.

Sec. 4. (a) This section applies only to a county containing a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter, the eligible entity shall certify to the county auditor a list of the liens that remain unpaid according to the following schedule:

(1) Liens recorded on or after August 1 of the preceding year and before February 1 of the current year shall be certified before March 1 of each year for collection in May of the same year.

(2) Liens recorded on or after February 1 of the current year and before August 1 of the current year shall be certified before September 1 of each year for collection in November of the same year.

(c) The county and the officers and employees of the county are not liable for any material error in the information on the list prepared under subsection (b).

Sec. 5. (a) This section applies only to a county that does not contain a consolidated city.

(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter:

(1) after April 1 of the preceding year; and

(2) before April 1 of the current year;

the eligible entity shall, before June 1 of each year, certify to the county auditor a list of the liens that remain unpaid for collection in the next November.

(c) The county and the officers and employees of the county are not liable for any material error in the information on the list.

Sec. 6. (a) The eligible entity shall release a recorded lien when the:

(1) delinquent taxes;

(2) penalties;

(3) service charges; and

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1 (4) recording fees;
2 have been fully paid.

3 (b) The county recorder shall charge a fee for releasing the lien
4 in accordance with IC 36-2-7-10.

5 Sec. 7. (a) This subsection applies to a county that does not
6 contain a consolidated city. On receipt of the list under section 5 of
7 this chapter, the county auditor shall add a fifteen dollar (\$15)
8 certification fee for each lot or parcel of real property on which
9 taxes are delinquent. The certification fee is in addition to all other
10 fees and taxes. The county auditor shall immediately enter on the
11 tax duplicate for the municipality the:

- 12 (1) delinquent taxes;
- 13 (2) penalties;
- 14 (3) service charges;
- 15 (4) recording fees; and
- 16 (5) certification fees;

17 that are due not later than the due date of the next November
18 installment of property taxes.

19 (b) This subsection applies to a county having a consolidated
20 city. On receipt of the list under section 4 of this chapter, the
21 county auditor shall enter on the tax duplicate the:

- 22 (1) delinquent taxes;
- 23 (2) penalties;
- 24 (3) service charges; and
- 25 (4) recording fees;

26 that are due not later than the due date of the next installment of
27 property taxes.

28 (c) The county treasurer shall include any unpaid charges for
29 the:

- 30 (1) delinquent tax;
- 31 (2) penalty;
- 32 (3) service charge;
- 33 (4) recording fee; and
- 34 (5) certification fee;

35 for each owner of each lot or parcel of property at the time the next
36 cycle's property tax installment is billed.

37 Sec. 8. (a) This section does not apply to a county containing a
38 consolidated city.

39 (b) After June 1 of each year, the officer of the eligible entity
40 may not collect or accept:

- 41 (1) delinquent taxes;
- 42 (2) penalties;

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1 (3) service charges;
 2 (4) recording fees; or
 3 (5) certification fees;
 4 from property owners whose property has been certified to the
 5 county auditor.

6 Sec. 9. If a:

7 (1) delinquent tax;
 8 (2) penalty;
 9 (3) service charge;
 10 (4) recording fee; or
 11 (5) certification fee;
 12 is not paid, the county treasurer shall collect the unpaid money in
 13 the same way that delinquent property taxes are collected.

14 Sec. 10. (a) At the time of each semiannual tax settlement, the
 15 county treasurer shall certify to the county auditor all:

16 (1) taxes;
 17 (2) fees and charges; and
 18 (3) penalties;
 19 that have been collected.

20 (b) The county auditor shall:

21 (1) deduct the service charges and certification fees collected
 22 by the county treasurer; and
 23 (2) pay to the officer of the eligible entity the remaining taxes
 24 and penalties due the eligible entity.

25 (c) The county treasurer shall:

26 (1) retain the service charges and certification fees that have
 27 been collected; and
 28 (2) deposit the charges and taxes in the county general fund.

29 Sec. 11. (a) This section applies to a:

30 (1) tax;
 31 (2) penalty; or
 32 (3) service charge;
 33 that was not recorded before a recorded conveyance.

34 (b) The:

35 (1) tax;
 36 (2) penalty; or
 37 (3) service charge;
 38 shall be removed from the tax roll for a purchaser who, in the
 39 manner prescribed by IC 6-1.7-6-7, files a verified demand with the
 40 county auditor.

41 Chapter 8. Foreclosure of Liens

42 Sec. 1. An eligible entity may, as an additional or alternative

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remedy, foreclose a lien established by this article as a means of collection of taxes, including the penalty on the taxes.

Sec. 2. (a) In all actions brought to foreclose the liens, the eligible entity is entitled to recover the following:

(1) The amount of the taxes.

(2) The penalty on the taxes.

(3) Reasonable attorney's fees.

(b) The court shall order that the foreclosure be made without relief from valuation or appraisal statutes.

Sec. 3. Except as otherwise provided by this article, the following apply in all actions to foreclose the liens:

(1) The laws concerning municipal public improvement assessments.

(2) The rights, remedies, procedure, and relief granted the parties to the action.

SECTION 5. IC 6-1.8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 1.8. COMMERCIAL ACTIVITY TAX

Chapter 1. Definitions

Sec. 1. Except as provided in section 9 of this chapter, the definitions in this chapter apply throughout this article.

Sec. 2. (a) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subarticle S subsidiaries, qualified subarticle S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(b) The term does not include nonprofit organizations or the state, its agencies, its instrumentalities, and its political subdivisions.

Sec. 3. "Consolidated elected taxpayer" means a group of two (2) or more persons treated as a single taxpayer for purposes of this article as the result of an election made under this article.

Sec. 4. "Combined taxpayer" means a group of two (2) or more persons treated as a single taxpayer for purposes of this article.

Sec. 5. "Fund" refers to the local government distribution fund established by IC 6-1.8-8-1.

Sec. 6. (a) "Taxpayer" means any person, or any group of

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persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one (1) taxpayer, required to register or pay tax under this article.

(b) The term does not include excluded persons.

Sec. 7. (a) Except as otherwise provided in this article, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(b) The following are examples of gross receipts:

(1) Amounts realized from the sale, exchange, or other disposition of a taxpayer's property to or with another.

(2) Amounts realized from a taxpayer's performance of services for another.

(3) Amounts realized from another's use or possession of a taxpayer's property or capital.

(4) Any combination of the foregoing amounts.

Sec. 8. "Gross receipts" excludes the following amounts:

(1) Interest income except interest on credit sales.

(2) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass through entity.

(3) Receipts from the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding Section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to:

(A) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations;

(B) interest rate fluctuations; or

(C) commodity price fluctuations.

As used in this subdivision, "hedging transaction" has the same meaning as used in Section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of Financial Accounting Standards number 133 of the Financial Accounting Standards Board. The actual transfer of title of

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1 real or tangible personal property to another entity is not a
2 hedging transaction.

3 (4) Proceeds received attributable to the repayment, maturity,
4 or redemption of the principal of a loan, bond, mutual fund,
5 certificate of deposit, or marketable instrument.

6 (5) The principal amount received under a repurchase
7 agreement or on account of any transaction properly
8 characterized as a loan to the person.

9 (6) Contributions received by a trust, plan, or other
10 arrangement, any of which is described in Section 501(a) of
11 the Internal Revenue Code, or to which Title 26, Subtitle A,
12 Article 1, Subarticle (D) of the Internal Revenue Code applies.

13 (7) Compensation, whether current or deferred, and whether
14 in cash or in kind, received or to be received by an employee,
15 former employee, or the employee's legal successor for
16 services rendered to or for an employer, including
17 reimbursements received by or for an individual for medical
18 or educational expenses, health insurance premiums, or
19 employee expenses, or on account of a dependent care
20 spending account, legal services plan, any cafeteria plan
21 described in Section 125 of the Internal Revenue Code, or any
22 similar employee reimbursement.

23 (8) Proceeds received from the issuance of the taxpayer's own
24 stock, options, warrants, puts, or calls, or from the sale of the
25 taxpayer's treasury stock.

26 (9) Proceeds received on the account of payments from life
27 insurance policies.

28 (10) The following:

29 (A) Gifts or charitable contributions received, membership
30 dues received, and payments received for educational
31 courses, meetings, meals, or similar payments to a trade,
32 professional, or other similar association.

33 (B) Fundraising receipts received by any person when any
34 excess receipts are donated or used exclusively for
35 charitable purposes.

36 (C) Proceeds received by a religious or other nonprofit
37 organization, including proceeds realized with regard to
38 the organization's unrelated business taxable income.

39 (11) Damages received as the result of litigation in excess of
40 amounts that, if received without litigation, would be gross
41 receipts.

42 (12) Property, money, and other amounts received or

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1 acquired by an agent on behalf of another in excess of the
2 agent's commission, fee, or other remuneration.

3 (13) Tax refunds, other tax benefit recoveries, and
4 reimbursements for the tax imposed under this article made
5 by entities that are part of the same combined taxpayer or
6 consolidated elected taxpayer group, and reimbursements
7 made by entities that are not members of a combined
8 taxpayer or consolidated elected taxpayer group that are
9 required to be made for economic parity among multiple
10 owners of an entity whose tax obligation under this article is
11 required to be reported and paid entirely by one (1) owner,
12 under the requirements of this article.

13 (14) Pension reversions.

14 (15) Contributions to capital.

15 (16) Sales or use taxes collected as a vendor or an out-of-state
16 seller on behalf of the taxing jurisdiction from a consumer or
17 other taxes the taxpayer is required by law to collect directly
18 from a purchaser and remit to a local, state, or federal tax
19 authority.

20 (17) In the case of receipts from the sale of cigarettes or
21 tobacco products by a wholesale dealer, retail dealer,
22 distributor, manufacturer, or seller, subject to IC 6-7, an
23 amount equal to the federal and state excise taxes paid by any
24 person on or for such cigarettes or tobacco products under
25 subtitle E of the Internal Revenue Code or IC 6-7.

26 (18) In the case of receipts from the sale of motor fuel,
27 gasoline, or special fuels by a person subject to IC 6-6-1.1,
28 IC 6-6-2.1, or IC 6-6-4.1, an amount equal to federal and state
29 excise taxes paid by any person on such motor fuel, gasoline,
30 or special fuel under Section 4081 of the Internal Revenue
31 Code, IC 6-6-1.1, IC 6-6-2.1, or IC 6-6-4.1.

32 (19) In the case of receipts from the sale of beer or
33 intoxicating liquor subject to IC 7.1 by a person holding a
34 permit issued under IC 7.1, an amount equal to federal and
35 state excise taxes paid by any person on or for such beer or
36 intoxicating liquor under subtitle E of the Internal Revenue
37 Code or IC 7.1.

38 (20) Receipts realized by a new motor vehicle dealer or used
39 motor vehicle dealer, from the sale or other transfer of a
40 motor vehicle, to another motor vehicle dealer for the purpose
41 of resale by the transferee motor vehicle dealer, but only if the
42 sale or other transfer was based upon the transferee's need to

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1 meet a specific customer's preference for a motor vehicle.

2 (21) Receipts from a financial institution subject to the
3 financial institutions tax under IC 6-5.5 for services provided
4 to the financial institution in connection with the issuance,
5 processing, servicing, and management of loans or credit
6 accounts, if the financial institution and the recipient of the
7 receipts have at least fifty percent (50%) of their ownership
8 interests owned or controlled, directly or constructively
9 through related interests, by common owners.

10 (22) Receipts realized from administering antineoplastic
11 drugs and other cancer chemotherapy, biologicals,
12 therapeutic agents, and supportive drugs in a physician's
13 office to patients with cancer.

14 (23) Funds received or used by a mortgage broker that is not
15 a dealer in intangibles, other than fees or other consideration,
16 under a table funding mortgage loan or warehouse lending
17 mortgage loan. As used in this subdivision, "mortgage
18 broker" means a person assisting a buyer in obtaining a
19 mortgage loan for a fee or other consideration paid by the
20 buyer or a lender, or a person engaged in table funding or
21 warehouse lending mortgage loans that are first lien mortgage
22 loans.

23 (24) Property, money, and other amounts received by a
24 professional employer organization from a client employer in
25 excess of the administrative fee charged by the professional
26 employer organization to the client employer.

27 (25) In the case of amounts retained as commissions by a
28 permit holder under IC 4-31, an amount equal to the amounts
29 specified under that article that must be paid to or collected
30 as a tax and the amounts specified under that article to be
31 used as purse money.

32 (26) Qualifying distribution center receipts.

33 (27) Any receipts for which the tax imposed by this article is
34 prohibited by the Constitution or laws of the United States or
35 the Constitution of the State of Indiana.

36 (28) Receipts subject to a financial institutions tax under
37 IC 6-5.5 based on one (1) or more measurement periods that
38 include the entire tax period under this article.

39 (29) Receipts subject to a utility receipts tax under IC 6-2.3.

40 (30) Receipts subject to an insurance premiums tax under
41 IC 27-1-18-2 based on one (1) or more measurement periods
42 that include the entire tax period under this article.

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(31) Receipts of a person that solely facilitates or services one (1) or more securitizations or similar transactions for any person described in subdivision (28). For purposes of this subdivision, "securitization" means transferring one (1) or more assets to one (1) or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

Sec. 9. (a) For purposes of this section and section 8(26) of this chapter, the following definitions apply:

(1) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one (1) minus the Indiana delivery percentage.

(2) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in Indiana or elsewhere.

(3) "Further shipping" includes storing and repackaging qualified property into smaller or larger bundles, so long as the property is not subject to further manufacturing or processing.

(4) "Qualified distribution center" means a warehouse or other similar facility in Indiana that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one (1) mile of each other shall be treated as one (1) qualified distribution center.

(5) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(6) "Qualifying period" means the period of July 1 of the second year preceding the qualifying year through June 30 of the year preceding the qualifying year.

(7) "Qualifying certificate" means an annual application approved by the department from an operator of a distribution center that has filed an application as prescribed by the department.

(8) "Indiana delivery percentage" means the proportion of the total property delivered to a destination inside Indiana from the qualified distribution center during the qualifying

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period compared with total deliveries from the qualified distribution center everywhere during the qualifying period.

(b) An application for a qualifying certificate and annual fee shall be filed and paid for each qualified distribution center. The application and annual fee shall be filed on or before September 1 before the qualifying year or forty-five (45) days after the opening of the distribution center, whichever is later. The applicant must substantiate to the department's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty percent (50%) of the cost of the qualified property shipped to a location such that it would be situated outside Indiana under this article. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars (\$500,000,000) during the qualifying period. For purposes of this subsection, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center. The department may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally accepted accounting principles. The department shall issue or deny the issuance of a certificate not later than sixty (60) days after the receipt of the application. A denial is subject to appeal under IC 6-8.1. If the operator files a timely appeal, the operator shall be granted a qualifying certificate; however, the operator is liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under this article, that would have otherwise not been owed by its suppliers if the qualifying certificate were valid.

(c) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the department grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty percent (50%) of the qualified property during that year was not shipped to a location such that it would be situated outside Indiana under this article or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less than forty million dollars (\$40,000,000) during that year, the operator of the distribution center is liable for any tax, interest, or penalty upon amounts

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1 claimed as qualifying distribution center receipts, other than those
 2 receipts exempt under this article that would have not otherwise
 3 been owed by its suppliers during the qualifying year if the
 4 qualifying certificate were valid. For purposes of this subsection,
 5 "supplier" excludes any person that is part of the consolidated
 6 elected taxpayer group, if applicable, of the operator of the
 7 qualified distribution center.

8 (d) When filing an application for a qualifying certificate under
 9 this section, the operator of a qualified distribution center also
 10 shall provide documentation, as the department requires, for the
 11 department to ascertain the Indiana delivery percentage. The
 12 department, upon issuing the qualifying certificate, also shall
 13 certify the Indiana delivery percentage. The operator of the
 14 qualified distribution center may appeal the department's
 15 certification of the Indiana delivery percentage in the same manner
 16 as an appeal is taken from the denial of a qualifying certificate
 17 under this section.

18 (e) Not later than thirty (30) days after all appeals have been
 19 exhausted, the operator of the qualified distribution center shall
 20 notify the affected suppliers of qualified property that the suppliers
 21 are required to file, not later than sixty (60) days after receiving
 22 notice from the operator of the qualified distribution center,
 23 amended reports for the affected calendar quarter or quarters or
 24 calendar year, whichever applies. Any additional tax liability or tax
 25 overpayment is subject to interest but is not subject to the
 26 imposition of any penalty so long as the amended returns are
 27 timely filed. The supplier of tangible personal property delivered
 28 to the qualified distribution center shall include in its report of
 29 taxable gross receipts the receipts from the total sales of property
 30 delivered to the qualified distribution center for the calendar
 31 quarter or calendar year, whichever applies, multiplied by the
 32 Indiana delivery percentage for the qualifying year. This section
 33 shall not be construed as imposing liability on the operator of a
 34 qualified distribution center for the tax imposed by this article
 35 arising from any change to the Indiana delivery percentage.

36 (f) In the case where the distribution center is new and not open
 37 for the entire qualifying period, the operator shall make a good
 38 faith estimate of an Indiana delivery percentage for use by
 39 suppliers in their reports of taxable gross receipts for the
 40 remainder of the qualifying period. The operator of the facility
 41 shall disclose to the suppliers that the Indiana delivery percentage
 42 is an estimate and is subject to recalculation. By the due date of the

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1 next application for a qualifying certificate, the operator shall
 2 determine the actual Indiana delivery percentage for the estimated
 3 qualifying period and proceed as provided in this section with
 4 respect to the calculation and recalculation of the Indiana delivery
 5 percentage. The supplier shall file, not later than sixty (60) days
 6 after receiving notice from the operator of the qualified
 7 distribution center, amended reports for the affected calendar
 8 quarter or quarters or calendar year, whichever applies. Any
 9 additional tax liability or tax overpayment is subject to interest but
 10 is not subject to the imposition of any penalty so long as the
 11 amended returns are timely filed.

12 (g) Qualifying certificates and Indiana delivery percentages
 13 issued by the department shall be open to public inspection and
 14 shall be timely published by the department. A supplier relying in
 15 good faith on a certificate issued under this section is not subject to
 16 tax on the qualifying distribution center receipts under this section.
 17 If it is determined that a qualifying certificate should not have been
 18 issued because the statutory requirements were in fact not met, a
 19 person receiving the qualifying certificate is responsible for paying
 20 the tax, interest, and penalty upon amounts claimed as qualifying
 21 distribution center receipts that would not otherwise have been
 22 owed by the supplier if the qualifying certificate were available.

23 (h) The annual fee for a qualifying certificate is one hundred
 24 thousand dollars (\$100,000) for each qualified distribution center.
 25 If a qualifying certificate is not issued, the annual fee is subject to
 26 refund after the exhaustion of all appeals provided for by law. The
 27 fee imposed under this subsection may be assessed in the same
 28 manner as the tax imposed under this article.

29 (i) The department may require that adequate security be
 30 posted by the operator of the distribution center on appeal when
 31 the department disagrees that the applicant has met the minimum
 32 thresholds for a qualified distribution center.

33 Sec. 10. In the case of a taxpayer when acting as a real estate
 34 broker, "gross receipts" includes only the part of any fee for the
 35 service of a real estate broker, or service of a real estate
 36 salesperson associated with that broker, that is retained by the
 37 broker and not paid to an associated real estate salesperson or
 38 another real estate broker.

39 Sec. 11. (a) A taxpayer's method of accounting for gross receipts
 40 for a tax period shall be the same as the taxpayer's method of
 41 accounting for federal income tax purposes for the taxpayer's
 42 federal taxable year that includes the tax period. If a taxpayer's

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method of accounting for federal income tax purposes changes, the taxpayer's method of accounting for gross receipts under this article shall be changed accordingly.

(b) In calculating gross receipts, the following shall be deducted to the extent included as a gross receipt in the current tax period or reported as taxable gross receipts in a prior tax period:

(1) Cash discounts allowed and taken.

(2) Returns and allowances.

(3) Bad debts. For purposes of this subdivision, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six (6) months, and may be claimed as a deduction under Section 166 of the Internal Revenue Code and the regulations adopted under this section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include:

(A) uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid;

(B) expenses incurred in attempting to collect any account receivable or incurred for any part of a debt recovered; or

(C) the fair market value of repossessed property.

(4) Any amount realized from the sale of an account receivable but only to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer.

Sec. 12. "Taxable gross receipts" means gross receipts situated to Indiana under this article.

Sec. 13. A person has "substantial nexus with Indiana" if the person qualifies under any of the following:

(1) Owns or uses a part or all of its capital in Indiana.

(2) Holds a certificate of compliance with the laws of Indiana authorizing the person to do business in Indiana.

(3) Has bright line presence in Indiana.

(4) Otherwise has nexus with Indiana to an extent that the person can be required to remit the tax imposed under this article under the Constitution of the United States.

Sec. 14. A person has "bright line presence" in Indiana for a reporting period and for the remaining part of the calendar year if the person meets any of the following:

(1) Has at any time during the calendar year property in

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Indiana with a total value of at least fifty thousand dollars (\$50,000). For the purpose of this subdivision, owned property is valued at original cost, and rented property is valued at eight (8) times the net annual rental charge.

(2) Has during the calendar year payroll in Indiana of at least fifty thousand dollars (\$50,000). Payroll in Indiana includes all of the following:

(A) Any amount subject to withholding by the person under IC 6-3.

(B) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in Indiana.

(C) Any amount the person pays for services performed in Indiana on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars (\$500,000).

(4) Has at any time during the calendar year within Indiana at least twenty-five percent (25%) of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in Indiana as an individual or for corporate, commercial, or other business purposes.

Sec. 15. "Calendar quarter" means a three (3) month period ending on March 31, June 30, September 30, or December 31.

Sec. 16. "Tax period" means the period over which a taxpayer is required to pay the tax imposed under this article.

Sec. 17. "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

(1) A person receiving a fee to sell financial instruments.

(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person.

(3) A lottery sales agent holding a valid Indiana license.

Sec. 18. "Received" includes amounts accrued under the accrual method of accounting.

Sec. 19. "Pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2); or

(2) a:

(A) partnership;

(B) trust;

(C) limited liability company; or

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1 (D) limited liability partnership;
 2 that is not treated as a corporation under IC 6-3.
 3 Sec. 20. "Department" refers to the department of state
 4 revenue.
 5 Sec. 21. "Taxing unit" means a political subdivision described
 6 in IC 6-1.2-1-1.
 7 Chapter 2. Combined Returns
 8 Sec. 1. A group of two (2) or more persons may elect to be a
 9 consolidated elected taxpayer for purposes of this article if the
 10 group satisfies all of the following requirements:
 11 (1) The group elects to include all persons having at least fifty
 12 percent (50%) of the value of their ownership interests owned
 13 or controlled, directly or constructively through related
 14 interests, by common owners during all or any part of the tax
 15 period, together with the common owners. At the election of
 16 the group, all entities that are not incorporated or formed
 17 under the laws of a state or of the United States and that meet
 18 the elected ownership test shall either be included in the group
 19 or all shall be excluded from the group. The group shall notify
 20 the department of the foregoing elections before the due date
 21 of the return in which the election is to become effective. If
 22 fifty percent (50%) of the value of a person's ownership
 23 interests is owned or controlled by each of two (2)
 24 consolidated elected taxpayer groups formed under the fifty
 25 percent (50%) ownership or control test, that person is a
 26 member of each group for the purposes of this chapter, and
 27 each group shall include in the group's taxable gross receipts
 28 fifty percent (50%) of that person's taxable gross receipts.
 29 Otherwise, all of that person's taxable gross receipts shall be
 30 included in the taxable gross receipts of the consolidated
 31 elected taxpayer group of which the person is a member. The
 32 ownership or control of fifty percent (50%) of the value of a
 33 person's ownership interests by two (2) otherwise unrelated
 34 groups never forms the basis for consolidating the groups into
 35 a single consolidated elected taxpayer group and never
 36 permits any exclusion under section 3 of this chapter of
 37 taxable gross receipts between members of the two (2) groups.
 38 Subdivision (3) applies with respect to the elections described
 39 in this subdivision.
 40 (2) The group makes the election to be treated as a
 41 consolidated elected taxpayer in the manner prescribed under
 42 section 5 of this chapter.

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(3) Subject to review and audit by the department, the group agrees that all of the following apply:

(A) The group shall file reports as a single taxpayer for at least the next eight (8) calendar quarters following the election so long as at least two (2) of the members of the group meet the requirements of this subdivision.

(B) Before the expiration of the eighth calendar quarter described in clause (A), the group shall notify the department if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the department, the election remains in effect for another eight (8) calendar quarters.

(C) If, at any time during any of the eight (8) calendar quarters following the election, a former member of the group no longer meets the requirements under subdivision (1), that member shall report and pay the tax imposed under this article separately, as a member of a combined taxpayer, or, if the former member satisfies the requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(D) The group agrees to the application of section 2 of this chapter.

Sec. 2. A group of persons making the election under this chapter shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with Indiana does not exist for one (1) or more persons in the group.

Sec. 3. (a) Members of a consolidated elected taxpayer group shall exclude gross receipts among persons included in the consolidated elected taxpayer group.

(b) As used in this section, "dealer transfer" means a transfer of property that satisfies both of the following:

(1) The property is directly transferred by any means from one (1) member of the group to another member of the group that is a dealer in intangibles.

(2) The property is subsequently delivered by the dealer in intangibles to a person that is not a member of the group.

(c) In the event of a dealer transfer, a consolidated elected taxpayer group shall not exclude, under this section, gross receipts from the transfer described in subsection (b)(1).

Sec. 4. Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the Federal Energy

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1 Regulatory Commission shall be excluded from taxable gross
 2 receipts under section 3 of this chapter if all other requirements of
 3 that section are met, even if the receipts are from and to the same
 4 member of the group.

5 Sec. 5. (a) To make the election to be a consolidated elected
 6 taxpayer, a group of persons shall notify the department of the
 7 election in the manner prescribed by the department. The election
 8 shall be made before the beginning of the first calendar quarter to
 9 which the election applies.

10 (b) The election shall be made on a form prescribed by the
 11 department for that purpose and shall be signed by one (1) or more
 12 individuals with authority, separately or together, to make a
 13 binding election on behalf of all persons in the group.

14 (c) Any person acquired or formed after the filing of the
 15 registration shall be included in the group if the person meets the
 16 requirements of this chapter, and the group shall notify the
 17 department of any additions to the group with the next tax return
 18 it files with the department.

19 Sec. 6. Each member of a consolidated elected taxpayer is jointly
 20 and severally liable for the tax imposed by this article and any
 21 penalties or interest thereon. The department may require one (1)
 22 person in the group to be the taxpayer for purposes of registration
 23 and remittance of the tax, but all members of the group are subject
 24 to assessment under IC 6-8.1.

25 Sec. 7. All persons, other than exempt persons, having more
 26 than fifty percent (50%) of the value of their ownership interest
 27 owned or controlled, directly or constructively through related
 28 interests, by common owners during all or any part of the tax
 29 period, together with the common owners, shall be members of a
 30 combined taxpayer if those persons are not members of a
 31 consolidated elected taxpayer under an election under this chapter.

32 Sec. 8. A combined taxpayer shall register, file returns, and pay
 33 taxes under this article as a single taxpayer.

34 Sec. 9. A combined taxpayer shall not exclude taxable gross
 35 receipts for transactions between its members or for transactions
 36 with others that are not members.

37 Sec. 10. (a) A combined taxpayer shall pay to the department a
 38 registration fee equal to the lesser of two hundred dollars (\$200) or
 39 twenty dollars (\$20) for each person in the group. An additional fee
 40 may not be imposed for the addition of new members to the group
 41 once the group has remitted a fee of two hundred dollars (\$200).
 42 The fee shall be timely paid before the beginning of the first

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1 calendar quarter.

2 (b) Any person acquired or formed after the filing of the
3 registration shall be included in the group if the person meets the
4 requirements of section 1 of this chapter, and the group must notify
5 the department of any additions with the next quarterly tax return
6 it files with the department.

7 Sec. 11. Each member of a combined taxpayer is jointly and
8 severally liable for the tax imposed by this article and any penalties
9 or interest thereon. The department may require one (1) person in
10 the group to be the taxpayer for purposes of registration and
11 remittance of the tax, but all members of the group are subject to
12 assessment under IC 6-8.1.

13 Chapter 3. Property Transferred Into Indiana

14 Sec. 1. Except as provided in this chapter, the following apply:

15 (1) A person shall include as taxable gross receipts the value
16 of property the person transfers into Indiana for the person's
17 own use within one (1) year after the person receives the
18 property outside Indiana.

19 (2) In the case of an elected consolidated taxpayer or a
20 combined taxpayer, the taxpayer shall include as taxable
21 gross receipts the value of property that any of the taxpayer's
22 members transferred into Indiana for the use of any of the
23 taxpayer's members within one (1) year after the taxpayer
24 receives the property outside Indiana.

25 Sec. 2. Property brought into Indiana not later than one (1) year
26 after it is received outside Indiana by a person or group described
27 in this chapter shall not be included as taxable gross receipts as
28 required under those divisions if the department ascertains that the
29 property's receipt outside Indiana by the person or group followed
30 by its transfer into Indiana not later than one (1) year was not
31 intended in whole or in part to avoid in whole or in part the tax
32 imposed under this article.

33 Sec. 3. The department may adopt rules under IC 4-22-2
34 necessary to administer this chapter.

35 Chapter 4. Imposition of Tax

36 Sec. 1. Beginning with the tax period that begins July 1, 2009,
37 and continuing for every tax period thereafter, there is levied a
38 commercial activity tax on each person with taxable gross receipts
39 for the privilege of doing business in Indiana. For purposes of this
40 article, "doing business" means engaging in any activity, whether
41 legal or illegal, that is conducted for, or results in, gain, profit, or
42 income, at any time during the calendar year. Persons on which the

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commercial activity tax is levied include, but are not limited to, persons with substantial nexus with Indiana. The tax imposed under this section is not a transactional tax and is not subject to P.L.86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed by law. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. The tax imposed by this section is an annual privilege tax for the calendar year that, in the case of calendar year taxpayers, is the annual tax period and, in the case of calendar quarter taxpayers, contains all quarterly tax periods in the calendar year. A taxpayer is subject to the annual privilege tax for doing business during any part of the calendar year.

Sec. 2. The tax imposed by this chapter is a tax on the taxpayer and shall not be billed or invoiced to another person. Even if the tax or any part of the tax is billed or invoiced and separately stated, the amounts remain part of the price for purposes of the sales and use taxes levied under IC 6-2.5. This chapter does not prohibit a person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this chapter.

Sec. 3. Except as provided in this article, the tax levied under this chapter for each tax period is the product of twenty-five hundredths of one percent (0.25%) multiplied by the gross receipts of the taxpayer.

Sec. 4. A taxpayer is entitled to a deduction against the gross receipts that are subject to taxation in a calendar year under this article. The amount of the deduction is equal to one thousand dollars (\$1,000).

Chapter 5. Situsing of Gross Receipts to Indiana

Sec. 1. For purposes of this article, gross receipts shall be sitused to Indiana in the same manner that adjusted gross income is sourced to Indiana under IC 6-3-2.

Sec. 2. If the situsing provisions of this chapter do not fairly represent the extent of a person's activity in Indiana, the person may request, or the department may require or permit, an alternative method. The request must be made within the applicable statute of limitations set forth in this article.

Sec. 3. The department may adopt rules under IC 4-22-2 to provide additional guidance to the application of this section, and provide alternative methods of situsing gross receipts that apply to all persons, or subset of persons, that are engaged in similar

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business or trade activities.

Chapter 6. Registration With Department; Fee

Sec. 1. Not later than the later of October 1, 2009, or thirty (30) days before the end of the first calendar quarter in which the taxpayer has taxable gross receipts in a calendar year, each person subject to this article shall register with the department on the form prescribed by the department. However, the department shall prescribe procedures that exempt a person that is reasonably likely to have gross receipts of less than one thousand dollars (\$1,000) in any calendar year from registering under this chapter.

Sec. 2. The form must include the following:

- (1) The person's name.
- (2) If applicable, the name of the state or country under the laws of which the person is incorporated.
- (3) If applicable, the location of a person's principal office and the name and address of the officer or agent of the corporation in charge of the business.
- (4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated under IC 23, with the post office address of each.
- (5) The kind of business in which the person is engaged, including applicable business or industry codes.
- (6) If required by the department, the date of the beginning of the person's annual accounting period that includes January 1 of the taxable calendar year.
- (7) If the person is not a corporation or a sole proprietor, the names of the person's owners and officers, if required by the department.
- (8) The person's federal employer identification number or numbers or, if those are not applicable, the person's Social Security number or equivalent.
- (9) All other information that the department requires to administer and enforce this article.

Sec. 3. Except as otherwise provided in this chapter, a person registering with the department under this chapter may not be required to pay a fee.

Sec. 4. If a person that has registered under this chapter is no longer a taxpayer subject to this article, the person shall notify the department that the person's registration should be canceled.

Chapter 7. Filing

Sec. 1. (a) Not later than forty (40) days after the end of each calendar quarter, every taxpayer shall file with the department a

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1 tax return in such form as the department prescribes. The return
 2 must include the amount of the taxpayer's taxable gross receipts
 3 for the calendar quarter and must indicate the amount of tax due
 4 for the calendar quarter.

5 (b) A taxpayer shall pay the tax imposed by this article on
 6 taxable gross receipts for a calendar quarter with the return filed
 7 under subsection (a).

8 (c) A tax return is not considered to be an incorrect reporting of
 9 taxable gross receipts for purposes of this chapter if the return
 10 reflects at least ninety-five percent (95%) and not more than one
 11 hundred five percent (105%) of the actual taxable gross receipts
 12 for the calendar quarter.

13 (d) The tax return filed for the fourth calendar quarter of a
 14 calendar year is the annual return for the privilege tax imposed by
 15 this article. The return must report any additional taxable gross
 16 receipts not previously reported in the calendar year and must
 17 adjust for any over-reported taxable gross receipts in the calendar
 18 year. If the taxpayer ceases to be a taxpayer before the end of the
 19 calendar year, the last return the taxpayer is required to file is the
 20 annual return for the taxpayer, and the taxpayer shall report any
 21 additional taxable gross receipts not previously reported in the
 22 calendar year and shall adjust for any over-reported taxable gross
 23 receipts in the calendar year.

24 Sec. 2. IC 6-8.1 applies to taxpayers under this article.

25 Sec. 3. (a) Any person remitting taxes exceeding ten thousand
 26 dollars (\$10,000) in any calendar quarter shall remit each tax
 27 payment and, if required by the department, file the tax return or
 28 the annual report electronically. The department may prescribe
 29 the means for taxpayers to file and remit the tax electronically.

30 (b) A person required by this section to remit taxes or file
 31 returns electronically may apply to the department, on the form
 32 prescribed by the department, to be excused from that
 33 requirement. The department may excuse a person from the
 34 requirements of this subsection for good cause.

35 (c) If a person required to remit taxes or file a return
 36 electronically under this section fails to do so, the department may
 37 impose a penalty not to exceed the following:

38 (1) For either of the first two (2) calendar quarters the person
 39 so fails, five percent (5%) of the amount of the payment that
 40 was required to be remitted.

41 (2) For the third and any subsequent calendar quarters the
 42 person so fails, ten percent (10%) of the amount of the

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1 payment that was required to be remitted.

2 (d) The penalty imposed under this section is in addition to any
3 other penalty imposed under this article or IC 6-8.1 and is
4 considered as revenue arising from the tax imposed under this
5 article.

6 Sec. 4. (a) If any person liable for the tax imposed under this
7 article sells the trade or business, disposes of in any manner other
8 than in the regular course of business at least seventy-five percent
9 (75%) of the assets of the trade or business, or quits the trade or
10 business, any tax owed by such person becomes due and payable
11 immediately, and the person shall pay the tax under this section,
12 including any applicable penalties and interest, not later than
13 forty-five (45) days after the date of selling or quitting the trade or
14 business. The person's successor shall withhold a sufficient amount
15 of the purchase money to cover the amount due and unpaid until
16 the former owner produces a receipt from the department showing
17 that the amounts are paid or a certificate indicating that no taxes
18 are due. If a purchaser fails to withhold purchase money, that
19 person is personally liable up to the purchase money amount, for
20 the amounts that are unpaid during the operation of the business
21 by the former owner.

22 (b) The department may adopt rules under IC 4-22-2 regarding
23 the issuance of certificates under this section, including the waiver
24 of the need for a certificate if certain criteria are met.

25 Sec. 5. (a) The department may prescribe requirements for the
26 keeping of records and other pertinent documents, the filing of
27 copies of federal income tax returns and determinations, and
28 computations reconciling federal income tax returns with the
29 returns and reports required by IC 6-8.1. The department may
30 require any person, by rule or notice served on that person, to keep
31 those records that the department considers necessary to show
32 whether, and the extent to which, a person is subject to this article.
33 Those records and other documents shall be open during business
34 hours to the inspection of the department and shall be preserved
35 for four (4) years unless the department, in writing, consents to
36 their destruction within that period or by order requires that they
37 be kept longer. If the records are normally kept by the person
38 electronically, the person shall provide the records to the
39 department electronically at the department's request.

40 (b) Any information required by the department under this
41 article is confidential. However, the department shall make public
42 an electronic list of all actively registered persons required to remit

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the tax under this article, including legal names, trade names, addresses, and account numbers. In addition, the list must include all persons that canceled their registration at any time during the preceding four (4) calendar years, including the date the registration was canceled.

Chapter 8. Deposits

Sec. 1. The local government distribution fund is established. The department shall administer the fund.

Sec. 2. The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from the investments shall be allocated to and deposited in the fund.

Sec. 3. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 4. The net amount collected from the tax imposed under this article, after making refunds and other adjustments for the overpayment of taxes under this article, shall be deposited in the local government distribution fund.

Sec. 5. After December 31, 2009, the department shall distribute the balance in the fund at least monthly to taxing units.

Sec. 6. The amount to be distributed from the fund to a taxing unit under this chapter is in proportion to the average value of property used or held for a business purpose in the political subdivision relative to the average value of property used or held for a business purpose in all taxing units in Indiana. For purposes of this section, the following apply:

(1) The value of property is the value determined in the manner prescribed in IC 6-3-2-2 for the determination of the property factor applicable to determining a taxpayer's adjusted gross income derived from sources within Indiana and reported to the department under this article.

(2) If property is located in more than one (1) taxing unit, the value of the property shall be assigned to each taxing unit.

(3) The value of indefinite situs property shall be allocated among political subdivisions in the manner provided in IC 6-1.1-8.

Sec. 7. There is annually appropriated to the department from the fund an amount sufficient to make the distributions required by this chapter.

SECTION 6. IC 6-1.9 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,

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ARTICLE 1.9. EMPLOYER PAYROLL EXPENSE TAX

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. (a) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services rendered in Indiana, including self-employment income, as defined in Section 1402 of the Internal Revenue Code.

(b) The term does not include remuneration:

- (1) excluded from the federal definition of wages set forth in Section 3401 of the Internal Revenue Code; or**
- (2) paid to a team member (as defined in IC 6-3-2-2.7) who would not be subject to adjusted gross income tax if IC 6-3-2-2.7 were not in effect.**

Sec. 3. "Department" refers to the department of state revenue.

Sec. 4. "Employee" means the following:

- (1) An individual who is an employee (as defined in section 3401 of the Internal Revenue Code).**
- (2) An individual who earns self-employment income (as defined in Section 1402 of the Internal Revenue Code).**

Sec. 5. (a) "Employer" means the following:

- (1) An employer (as defined in Section 3401 of the Internal Revenue Code).**
- (2) An individual who earns self-employment income (as defined in Section 1402 of the Internal Revenue Code).**

(b) The term does not include the following:

- (1) The United States government.**
- (2) An agency or instrumentality of the United States government.**
- (3) The state.**
- (4) A state agency (as defined in IC 34-6-2-141).**
- (5) A body corporate and politic created by statute.**
- (6) A political subdivision (as defined in IC 34-6-2-110).**
- (7) A state educational institution (as defined in IC 21-7-13-32).**
- (8) A nonprofit college or university (as defined in IC 21-17-1-10).**
- (9) An organization described in Section 501(c)(3) of the Internal Revenue Code.**
- (10) Any other entity that is organized and operated exclusively for religious, charitable, scientific, literary, or**

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educational purposes if no part of the entity's income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate of the entity. For purposes of this subdivision, the term "private benefit or gain" does not include reasonable compensation paid to an employee for work or services actually performed.

Sec. 6. "Fund" refers to the local government payroll distribution fund established by IC 6-1.9-4-1.

Sec. 7. "Tax" refers to the employer payroll expense tax imposed under this article.

Sec. 8. "Tax district" means a geographic area within which resident taxpayers are taxed under IC 6-1.6 by the same taxing units and at the same total rate.

Sec. 9. "Taxing unit" means a political subdivision described in IC 6-1.2-1-1.

Chapter 2. Imposition of Tax

Sec. 1. An employer payroll expense tax is imposed on each employer that pays compensation to one (1) or more employees who:

- (1) are Indiana residents; or
- (2) perform work or render services in whole or in part in Indiana;

after December 31, 2009. The incidence of the tax is solely upon the employer subject to the tax and may not be transferred directly or indirectly to the employee.

Sec. 2. The amount of the employer payroll expense tax imposed on an employer for a calendar year is determined under STEP TWO of the following formula:

STEP ONE: Determine the total amount of compensation paid by the employer to employees during the calendar year.

STEP TWO: Multiply the STEP ONE amount by twenty-five hundredths of one percent (0.25%).

Chapter 3. Returns and Remittances

Sec. 1. An employer who is subject to the tax imposed by this article shall file an annual return with the department on or before the thirtieth day following the close of the calendar year. An employer may take a credit on an annual return filed under this section for any taxes previously paid by the employer for that calendar year under section 2 or 3 of this chapter.

Sec. 2. (a) Except as provided by subsection (b) or section 3 of this chapter, an employer who is subject to the tax imposed by this article shall file returns with the department and make payments

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of the tax imposed by this article at the same time the employer files withholding returns under IC 6-3-4. The amount of tax to be paid by the employer with each withholding return is determined under STEP TWO of the following formula:

STEP ONE: Determine the total amount of compensation paid by the employer to employees during the period covered by the withholding return.

STEP TWO: Multiply the STEP ONE amount by twenty-five hundredths of one percent (0.25%).

(b) An employer who is required by IC 6-3-4-8.1 to remit monthly withholding taxes due by electronic funds transfer or by delivering a payment by cashier's check, certified check, or money order shall remit the monthly tax payments required by subsection (a) in the same manner and at the same time. If an employer's remittance of employer payroll expense taxes is made by electronic funds transfer, the employer is not required to file a monthly return for those taxes. However, the employer shall file a quarterly return before the twentieth day following the end of each calendar quarter.

Sec. 3. (a) Except as provided by subsection (b), an employer who is subject to the tax imposed by this article but is not required to file withholding returns under IC 6-3-4 shall file monthly returns with the department and make monthly payments of the tax imposed by this article. The amount of tax to be paid by the employer for each month is determined under STEP TWO of the following formula:

STEP ONE: Determine the total amount of compensation paid by the employer to employees during the month.

STEP TWO: Multiply the STEP ONE amount by twenty-five hundredths of one percent (0.25%).

The employer shall pay taxes due under this section for a particular month to the department not later than thirty (30) days after the end of that month.

(b) If the department determines that:

(1) the employer's estimated monthly tax liability under this article for the current calendar year; or

(2) the employer's average monthly tax liability under this article for the preceding calendar year;

exceeds ten thousand dollars (\$10,000), the employer shall remit the monthly tax payments required by this section by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check,

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certified check, or money order to the department. If an employer's remittance is made by electronic funds transfer, the employer is not required to file a monthly return for those taxes. However, the employer shall file a quarterly return before the twentieth day following the end of each calendar quarter.

Sec. 4. The department shall require an employer to report the amount of each remittance of tax payments under this chapter that is attributable to each taxing district in which an employee of the employer has a principal place of business or employment, as determined at the beginning of the month in which the compensation was earned.

Sec. 5. The department shall prescribe the procedures and forms for making returns and payments under this chapter, including a procedure for combining the returns required by this section with the withholding returns required by IC 6-3-4.

Chapter 4. Administration and Deposit of Revenue

Sec. 1. The local government payroll distribution fund is established. The department shall administer the fund.

Sec. 2. The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from the investments shall be allocated to and deposited in the fund.

Sec. 3. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 4. The net amount collected from the tax imposed under this article, after making refunds and other adjustments for the overpayment of taxes under this article, shall be deposited in the fund.

Sec. 5. After December 31, 2009, the department shall distribute the balance in the fund at least monthly to taxing units.

Sec. 6. The amount to be distributed from the fund to a taxing unit is the amount determined under STEP TWO of the following formula:

STEP ONE: For each taxing district in which a taxing unit imposes a tax under IC 6-1.2, determine the total amount being distributed that is attributable to employees who have a principal place of business or employment in the taxing district.

STEP TWO: Multiply the STEP ONE amount by a fraction. The:

(A) numerator of the fraction is the amount of the budget

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for the taxing unit approved by the county board under IC 6-1.2 for the budget year in which the tax being distributed was imposed; and

(B) denominator of the fraction is the sum of the budgets approved by the county board under IC 6-1.2 for all of the taxing units permitted to impose a tax under IC 6-1.2 for the budget year in which the tax being distributed was imposed.

Sec. 7. There is annually appropriated to the department from the fund an amount sufficient to make the distributions required by this chapter.

SECTION 7. IC 6-2.5-2-2, AS AMENDED BY P.L.146-2008, SECTION 310, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2. (a) The state gross retail tax is measured by the gross retail income received by a retail merchant in a retail unitary transaction and is imposed at the following rates:

STATE GROSS RETAIL TAX	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION	
\$ 0	less than	\$0.08
\$ 0.01	at least \$ 0.08 but less than	\$0.21
\$ 0.02	at least \$ 0.21 but less than	\$0.36
\$ 0.03	at least \$ 0.36 but less than	\$0.51
\$ 0.04	at least \$ 0.51 but less than	\$0.64
\$ 0.05	at least \$ 0.64 but less than	\$0.79
\$ 0.06	at least \$ 0.79 but less than	\$0.93
\$ 0.07	at least \$ 0.93 but less than	\$1.07
\$ 0	less than	\$0.07
\$ 0.01	at least \$ 0.07 but less than	\$0.20
\$ 0.02	at least \$ 0.20 but less than	\$0.34
\$ 0.03	at least \$ 0.34 but less than	\$0.48
\$ 0.04	at least \$ 0.48 but less than	\$0.60
\$ 0.05	at least \$ 0.60 but less than	\$0.74
\$ 0.06	at least \$ 0.74 but less than	\$0.87
\$ 0.07	at least \$ 0.87 but less than	\$1.00

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar ~~and seven cents (\$1.07)~~ **(\$1.00)** or more, the state gross retail tax is seven ~~and five tenths percent (7%)~~ **(7.5%)** of that gross retail income.

(b) If the tax computed under subsection (a) results in a fraction of one-half cent (\$0.005) or more, the amount of the tax shall be rounded

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to the next additional cent.

SECTION 8. IC 6-2.5-6-7, AS AMENDED BY P.L.146-2008, SECTION 311, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 7. Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

- (1) seven **and five tenths** percent (~~7%~~); (**7.5%**); multiplied by
- (2) the retail merchant's total gross retail income from taxable transactions made during the reporting period.

The amount determined under this section is the retail merchant's state gross retail and use tax liability regardless of the amount of tax the retail merchant actually collects.

SECTION 9. IC 6-2.5-6-10, AS AMENDED BY P.L.146-2008, SECTION 313, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

- (1) ~~Seventy-three~~ **Sixty-eight** hundredths percent (~~0.73%~~); (**0.68%**), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).
- (2) ~~Fifty-three~~ **Forty-nine** hundredths percent (~~0.53%~~); (**0.49%**), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:
 - (A) was greater than sixty thousand dollars (\$60,000); and
 - (B) did not exceed six hundred thousand dollars (\$600,000).
- (3) ~~Twenty-six~~ **Twenty-four** hundredths percent (~~0.26%~~); (**0.24%**), if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not

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entitled to the allowance provided by this section.

SECTION 10. IC 6-2.5-7-3, AS AMENDED BY P.L.146-2008, SECTION 314, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 3. (a) With respect to the sale of gasoline which is dispensed from a metered pump, a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) seven **and five tenths** percent (~~7%~~): **(7.5%)**.

The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

(b) With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) seven **and five tenths** percent (~~7%~~): **(7.5%)**.

Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

SECTION 11. IC 6-2.5-7-5, AS AMENDED BY P.L.146-2008, SECTION 315, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

(1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

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(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals six and ~~fifty-four~~ **ninety-eight** hundredths percent (~~6.54%~~) **(6.98%)** of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which the merchant has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2020, determine the product of:

(A) eighteen cents (\$0.18); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed one million dollars (\$1,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c)

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STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed one million dollars (\$1,000,000), the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 12. IC 6-2.5-10-1, AS AMENDED BY P.L.146-2008, SECTION 317, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 1. (a) The department shall account for all state gross retail and use taxes that it collects.

(b) The department shall deposit those collections in the following manner:

(1) Ninety-nine and ~~one two~~ hundred ~~seventy-eight thirty-one~~ thousandths percent (~~99.178%~~) **(99.231%)** of the collections shall be paid into the state general fund.

(2) ~~Sixty-seven hundredths~~ **Six hundred twenty-seven thousandths** of one percent (~~0.67%~~) **(0.627%)** of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.

(3) ~~Twenty-nine~~ **Twenty-seven** thousandths of one percent (~~0.029%~~) **(0.027%)** of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

(4) One hundred ~~twenty-three~~ **fifteen** thousandths of one percent (~~0.123%~~) **(0.115%)** of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

SECTION 13. IC 6-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010] : Sec. 1. (a) Each taxable year, a tax at the rate of three ~~and four-tenths~~ percent (~~3.4%~~) **(3%)** of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Except as provided in section 1.5 of this chapter, each taxable year, a tax at the rate of eight and five-tenths percent (8.5%) of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.

SECTION 14. IC 6-8.1-1-1, AS AMENDED BY P.L.131-2008, SECTION 27, AS AMENDED BY P.L.146-2008, SECTION 358, AND AS AMENDED BY P.L.95-2008, SECTION 15, IS

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CORRECTED AND AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2009]: Sec. 1. "Listed taxes" or "taxes" includes
 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the
 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax
 (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); *the type II*
gambling game excise tax (IC 4-36-9); **the local resident income tax**
(IC 6-1.6); the fire and safety benefit tax (IC 6-1.7); the commercial
activity tax (IC 6-1.8); the employer payroll expense tax (IC 6-1.9);
 the gross income tax (IC 6-2.1) (repealed); the utility receipts and
 utility services use taxes (IC 6-2.3); the state gross retail and use taxes
 (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net
 income tax (IC 6-3-8) (repealed); the county adjusted gross income tax
 (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county
 economic development income tax (IC 6-3.5-7); *the municipal option*
income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the
 financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the
 alternative fuel permit fee (IC 6-6-2.1); the special fuel tax
 (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
 collected under a reciprocal agreement under IC 6-8.1-3; the motor
 vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax
 (IC 6-6-5.5); *the excise tax imposed on recreational vehicles and truck*
campers (IC 6-6-5.1); the hazardous waste disposal tax (IC 6-6-6.6);
 the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor
 excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider
 excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the
 petroleum severance tax (IC 6-8-1); the various innkeeper's taxes
 (IC 6-9); the various food and beverage taxes (IC 6-9); the county
 admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee
 (IC 16-44-2); the emergency and hazardous chemical inventory form
 fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3
 and IC 9-30); the fees and penalties assessed for overweight vehicles
 (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23);
 the solid waste management fee (IC 13-20-22); and any other tax or fee
 that the department is required to collect or administer.

SECTION 15. P.L.146-2008, SECTION 850, IS REPEALED
 [EFFECTIVE JULY 1, 2009].

SECTION 16. [EFFECTIVE JULY 1, 2009] (a) For purposes of:

- (1) IC 6-2.5-2-2, as amended by this act;
- (2) IC 6-2.5-6-7, as amended by this act;
- (3) IC 6-2.5-6-10, as amended by this act;
- (4) IC 6-2.5-7-3, as amended by this act; and
- (5) IC 6-2.5-7-5, as amended by this act;

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all transactions, except the furnishing of public utility, telephone, or cable television services and commodities by retail merchants described in IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11 shall be considered as having occurred after December 31, 2009, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before January 1, 2010, to the extent that the agreement of the parties to the transaction was entered into before January 1, 2010, and payment for the property or services furnished in the transaction is made before January 1, 2010, notwithstanding the delivery of the property or services after December 31, 2009.

(b) With respect to a transaction constituting the furnishing of public utility, telephone, or cable television services and commodities, only transactions for which the charges are collected upon original statements and billings dated after October 31, 2009, shall be considered as having occurred after December 31, 2009.

(c) The legislative council shall provide for the preparation of legislation for introduction in the 2010 regular session of the general assembly to correct and revise statutes affected by this act.

(d) Notwithstanding IC 6-1.1-20, IC 6-1.1-20 applies to bonds and leases for capital projects payable from any combination of a local resident income tax imposed under IC 6-1.6, a fire and safety benefit tax imposed under IC 6-1.7, a commercial activity tax imposed under IC 6-1.8, or an employer payroll expense tax imposed under IC 6-1.9.

(e) This subsection does not apply to an exemption granted under IC 6-1.1-10 or another law. A deduction from the assessed value of property subject to property taxation granted by IC 6-1.1-12, IC 6-1.1-12.1, or another law shall not be treated as a deduction or an exemption from fire and safety benefit tax imposed under IC 6-1.7.

(f) A taxpayer who is subject in a taxable year to different state adjusted gross income tax rates shall pay taxes at each rate equal to the product of:

(1) the amount of taxes the taxpayer would owe if the tax rate had been imposed during the taxpayer's entire taxable year; multiplied by

(2) a fraction:

(A) the numerator of which equals the number of days during the taxpayer's taxable year during which the tax

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- 1 rate was in effect; and
2 (B) the denominator of which equals the total number of
3 days in the taxpayer's taxable year.
4 The department of state revenue shall provide instructions to
5 employers and taxpayers to implement this subsection.
6 (g) The department of local government finance shall assist
7 political subdivisions and county boards of tax adjustment with the
8 implementation of this act.
9 (h) This SECTION expires January 1, 2011.

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